

§ 647.22 How does the Secretary evaluate prior experience?

(a) In the case of an applicant described in § 647.20(a)(2)(i), the Secretary—

(1) Evaluates an applicant's performance under its expiring McNair project;

(2) Uses the approved project objectives for the applicant's expiring McNair grant and the information the applicant submitted in its annual performance reports (APRs) to determine the number of PE points; and

(3) May adjust a calculated PE score or decide not to award PE points if other information such as audit reports, site visit reports, and project evaluation reports indicates the APR data used to calculate PE are incorrect.

(b) The Secretary does not award PE points for a given year to an applicant that does not serve at least 90 percent of the approved number of participants. For purposes of this section, the approved number of participants is the total number of participants the project would serve as agreed upon by the grantee and the Secretary.

(c) The Secretary does not award any PE points for the criteria specified in paragraph (e)(1) of this section (Number of participants) if the applicant did not serve at least the approved number of participants.

(d) The Secretary uses the approved number of participants, or the actual number of participants served in a given year if greater than the approved number of participants, as the denominator for calculating whether the applicant has met its approved objective related to paragraph (e)(2) of this section (Research and scholarly activities).

(e) For purposes of the PE evaluation of grants awarded after January 1, 2009, the Secretary evaluates the applicant's PE on the basis of the following outcome criteria:

(1) (3 points) *Number of participants*. Whether the applicant provided services to no less than the approved number of participants.

(2) (3 points) *Research or scholarly activities*. Whether the applicant met or exceeded its objective for providing participants served during the project year with appropriate research and

scholarly activities each academic year.

(3) (3 points) *Graduate school enrollment*. Whether the applicant met or exceeded its objective with regard to the acceptance and enrollment in graduate programs of participants served during the project year who complete the baccalaureate program during the academic year.

(4) (4 points) *Continued enrollment in graduate school*. Whether the applicant met or exceeded its objective with regard to the continued enrollment in graduate school of prior participants.

(5) (2 points) *Doctoral degree attainment*. Whether the applicant met or exceeded its objective with regard to the attainment of doctoral level degrees of prior participants in the specified number of years.

(Approved by the Office of Management and Budget under control number 1840-NEW11)

(Authority: 20 U.S.C. 1070a-11 and 1070a-15)

[75 FR 65796, Oct. 26, 2010]

§ 647.23 How does the Secretary set the amount of a grant?

(a) The Secretary sets the amount of a grant on the basis of—

(1) 34 CFR 75.232 and 75.233 for new grants; and

(2) 34 CFR 75.253 for the second and subsequent years of a project period.

(b) If the circumstances described in section 402A(b)(3) of the HEA exist, the Secretary uses the available funds to set the amount of the grant at the lesser of—

(1) \$200,000; or

(2) The amount requested by the applicant.

(Authority: 20 U.S.C. 1070a-11)

[59 FR 43989, Aug. 25, 1994, as amended at 75 FR 65796, Oct. 26, 2010]

§ 647.24 What is the review process for unsuccessful applicants?

(a) *Technical or administrative error for applications not reviewed*. (1) An applicant whose grant application was not evaluated during the competition may request that the Secretary review the application if—

(i) The applicant has met all of the application submission requirements included in the FEDERAL REGISTER notice inviting applications and the other

published application materials for the competition; and

(ii) The applicant provides evidence demonstrating that the Department or an agent of the Department made a technical or administrative error in the processing of the submitted application.

(2) A technical or administrative error in the processing of an application includes—

(i) A problem with the system for the electronic submission of applications that was not addressed in accordance with the procedures included in the FEDERAL REGISTER notice inviting applications for the competition;

(ii) An error in determining an applicant's eligibility for funding consideration, which may include, but is not limited to—

(A) An incorrect conclusion that the application was submitted by an ineligible applicant;

(B) An incorrect conclusion that the application exceeded the published page limit;

(C) An incorrect conclusion that the applicant requested funding greater than the published maximum award; or

(D) An incorrect conclusion that the application was missing critical sections of the application; and

(iii) Any other mishandling of the application that resulted in an otherwise eligible application not being reviewed during the competition.

(3)(i) If the Secretary determines that the Department or the Department's agent made a technical or administrative error, the Secretary has the application evaluated and scored.

(ii) If the total score assigned the application would have resulted in funding of the application during the competition and the program has funds available, the Secretary funds the application prior to the re-ranking of applications based on the second peer review of applications described in paragraph (c) of this section.

(b) *Administrative or scoring error for applications that were reviewed.* (1) An applicant that was not selected for funding during a competition may request that the Secretary conduct a second review of the application if—

(i) The applicant provides evidence demonstrating that the Department,

an agent of the Department, or a peer reviewer made an administrative or scoring error in the review of its application; and

(ii) The final score assigned to the application is within the funding band described in paragraph (d) of this section.

(2) An administrative error relates to either the PE points or the scores assigned to the application by the peer reviewers.

(i) For PE points, an administrative error includes mathematical errors made by the Department or the Department's agent in the calculation of the PE points or a failure to correctly add the earned PE points to the peer reviewer score.

(ii) For the peer review score, an administrative error is applying the wrong peer reviewer scores to an application.

(3)(i) A scoring error relates only to the peer review process and includes errors caused by a reviewer who, in assigning points—

(A) Uses criteria not required by the applicable law or program regulations, the FEDERAL REGISTER notice inviting applications, the other published application materials for the competition, or guidance provided to the peer reviewers by the Secretary; or

(B) Does not consider relevant information included in the appropriate section of the application.

(ii) The term "scoring error" does not include—

(A) A peer reviewer's appropriate use of his or her professional judgment in evaluating and scoring an application;

(B) Any situation in which the applicant did not include information needed to evaluate its response to a specific selection criterion in the appropriate section of the application as stipulated in the FEDERAL REGISTER notice inviting applications or the other published application materials for the competition; or

(C) Any error by the applicant.

(c) *Procedures for the second review.* (1) To ensure the timely awarding of grants under the competition, the Secretary sets aside a percentage of the funds allotted for the competition to be awarded after the second review is completed.

(2) After the competition, the Secretary makes new awards in rank order as described in § 647.20 based on the available funds for the competition minus the funds set aside for the second review.

(3) After the Secretary issues a notification of grant award to successful applicants, the Secretary notifies each unsuccessful applicant in writing as to the status of its application and the funding band for the second review and provides copies of the peer reviewers' evaluations of the applicant's application and the applicant's PE score, if applicable.

(4) An applicant that was not selected for funding following the competition as described in paragraph (c)(2) of this section and whose application received a score within the funding band as described in paragraph (d) of this section, may request a second review if the applicant demonstrates that the Department, the Department's agent, or a peer reviewer made an administrative or scoring error as provided in paragraph (b) of this section.

(5) An applicant whose application was not funded after the first review as described in paragraph (c)(2) of this section and whose application received a score within the funding band as described in paragraph (d) of this section has at least 15 calendar days after receiving notification that its application was not funded in which to submit a written request for a second review in accordance with the instructions and due date provided in the Secretary's written notification.

(6) An applicant's written request for a second review must be received by the Department or submitted electronically to a designated e-mail or Web address by the due date and time established by the Secretary.

(7) If the Secretary determines that the Department or the Department's agent made an administrative error that relates to the PE points awarded, as described in paragraph (b)(2)(i) of this section, the Secretary adjusts the applicant's PE score to reflect the correct number of PE points. If the adjusted score assigned to the application would have resulted in funding of the application during the competition and the program has funds available, the

Secretary funds the application prior to the re-ranking of applications based on the second peer review of applications described in paragraph (c)(9) of this section.

(8) If the Secretary determines that the Department, the Department's agent or the peer reviewer made an administrative error that relates to the peer reviewers' score(s), as described in paragraph (b)(2)(ii) of this section, the Secretary adjusts the applicant's peer reviewers' score(s) to correct the error. If the adjusted score assigned to the application would have resulted in funding of the application during the competition and the program has funds available, the Secretary funds the application prior to the re-ranking of applications based on the second peer review of applications described in paragraph (c)(9) of this section.

(9) If the Secretary determines that a peer reviewer made a scoring error, as described in paragraph (b)(3) of this section, the Secretary convenes a second panel of peer reviewers in accordance with the requirements in section 402A(c)(8)(C)(iv)(III) of the HEA.

(10) The average of the peer reviewers' scores from the second peer review are used in the second ranking of applications. The average score obtained from the second peer review panel is the final peer reviewer score for the application and will be used even if the second review results in a lower score for the application than that obtained in the initial review.

(11) For applications in the funding band, the Secretary funds these applications in rank order based on adjusted scores and the available funds that have been set aside for the second review of applications.

(d) *Process for establishing a funding band.* (1) For each competition, the Secretary establishes a funding band for the second review of applications.

(2) The Secretary establishes the funding band for each competition based on the amount of funds the Secretary has set aside for the second review of applications.

(3) The funding band is composed of those applications—

(i) With a rank-order score before the second review that is below the lowest

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score of applications funded after the first review; and

(ii) That would be funded if the Secretary had 150 percent of the funds that were set aside for the second review of applications for the competition.

(e) *Final decision.* (1) The Secretary's determination of whether the applicant has met the requirements for a second review and the Secretary's decision on re-scoring of an application are final and not subject to further appeal or challenge.

(2) An application that scored below the established funding band for the competition is not eligible for a second review.

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(Authority: 20 U.S.C. 1070a-11)

[75 FR 65796, Oct. 26, 2010]

Subpart D—What Conditions Must Be Met by a Grantee?

§ 647.30 What are allowable costs?

Allowable project costs, not specifically covered by 34 CFR part 74, may include the following costs reasonably related to carrying out a McNair project:

(a) Activities of an academic or scholarly nature, such as trips to institutions of higher education offering doctoral programs, and special lectures, symposia, and professional conferences, which have as their purpose the encouragement and preparation of project participants for doctoral studies.

(b) Stipends of up to \$2,800 per year for students engaged in research internships, provided that the student has completed the sophomore year of study at an eligible institution before the internship begins.

(c) Necessary tuition, room and board, and transportation for students engaged in research internships during the summer.

(d) Purchase, lease, or rental of computer hardware, software, and other equipment, service agreements for such equipment, and supplies for participant

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development, project administration, or project recordkeeping.

[59 FR 43989, Aug. 25, 1994, as amended at 75 FR 65797, Oct. 26, 2010]

§ 647.31 What are unallowable costs?

Costs that may not be charged against a grant under this program include the following:

(a) Payment of tuition, stipends, test preparation and fees or any other form of student financial support to staff or participants not expressly allowed under § 647.30.

(b) Construction, renovation, and remodeling of any facilities.

(Authority: 20 U.S.C. 1070a-5)

§ 647.32 What other requirements must a grantee meet?

(a) *Number of Participants.* For each year of the project period, a grantee must serve at least the number of participants that the Secretary identifies in the FEDERAL REGISTER notice inviting applications for a competition. Through this notice, the Secretary also provides the minimum and maximum grant award amounts for the competition.

(b) *Eligibility of participants.* (1) A grantee shall determine the eligibility of each student before the student is selected to participate. A grantee does not have to redetermine a student's eligibility once the student has been determined eligible in accordance with the provisions of § 647.3; and

(2) A grantee shall determine the status of a low-income individual on the basis of the documentation described in section 402A(e) of the HEA.

(c) *Recordkeeping.* For each student, a grantee shall maintain a record of—

(1) The basis for the grantee's determination that the student is eligible to participate in the project under § 647.3;

(2) The individual needs assessment;

(3) The services provided to the participant; and

(4) The specific educational progress made by the student during and after participation in the project.

(5) To the extent practicable, any services the participant receives during the project year from another Federal TRIO program or another federally